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February 4, 2003

FILED ELECTRONICALLY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket Nos. 02-33, 95-20 & 98-10
Notice of *Ex Parte* Presentation

Dear Ms. Salas:

Submitted herewith pursuant to Section 1.1206(b)(2) of the Commission's rules is a notice regarding permitted oral *ex parte* presentations in the above-captioned proceedings. On February 3, 2003, Paula Boyd, Regulatory Counsel to Microsoft Corp., and the undersigned met with Carol Matthey, Scott Bergmann, Jane Jackson, and Brent Olson of the Wireline Competition Bureau and Ms. Boyd met separately with Dan Gonzalez, Senior Legal Advisor to Commissioner Martin, and Robert Pepper of the Office of Plans and Policy concerning the need for consumers to be able to connect to and use the broadband network across all platforms without interference by network operators.

The parties emphasized that the history of the Internet has been characterized by consumer ability to use an unprecedented array of content, services, and applications via an ever-increasing repertoire of products and equipment. We expressed concern that the longstanding principles of network neutrality and consumer connectivity, embodied in *Carterfone* and other Commission decisions for decades, may not be carried forward into the broadband era. We urged the Commission to ensure that consumers have the ability they now enjoy lawfully to roam over the Internet; to run the applications they want using the equipment they choose; to gather, create, and share information; and to connect to websites absent interference by network operators.

The parties also discussed the increasing consensus among large numbers of companies in the e-commerce, software, hardware, and telecommunications industries, as well as groups representing citizens who use the Internet for interactive communications, as to the importance of this problem and the need for preserving well-accepted non-impairment principles in the

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above-captioned proceedings. Without advocating one particular solution, the parties discussed different approaches that have been put forth to achieve this end, including adopting a prescriptive rule prohibiting network operators from discriminating, technically or otherwise, against unaffiliated Internet content, applications, or services; implementing an open access regime, whereby unaffiliated ISPs would be able to provide service over a network operator's pipe; or requiring network operators not to unreasonably discriminate against or adopt unreasonable practices with respect to providers of Internet content, applications, and services. With respect to the latter, the parties explained that this could be accomplished with a broad principle and would not necessitate detailed and complex rules. Finally, the parties made clear that nothing suggested in this proposal would either preclude carriers from adopting, or require them to implement, a tiered pricing system.

Kindly address any questions to the undersigned.

Sincerely,



Gerard J. Waldron
Counsel to Microsoft

cc: Carol Matthey
Scott Bergmann
Jane Jackson
Brent Olson
Dan Gonzalez
Robert Pepper